

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JODY RAY KOESTLER,

Defendant.

CR 15-27-BU-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on November 9, 2015. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Jody Ray Koestler’s guilty plea after Koestler appeared before him pursuant to Federal Rule of Criminal

Procedure 11, and entered a plea of guilty to the charges of Theft of Government Funds (Count V) and Making False Statements (Count VII) in violation of 18 U.S.C. §§ 641 and 1001, respectively, as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I-IV, VI, VIII, and IX of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 25), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Jody Ray Koestler's motion to change plea (Doc. 15) is GRANTED and Jody Ray Koestler is adjudged guilty of the offenses charged in Counts V and VII of the Indictment.

DATED this 24th day of November, 2015.



Dana L. Christensen, Chief District Judge
United States District Court